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**SUBSTITUTE SENATE BILL 5263**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Franklin, Hobbs, Berkey and Hatfield; by request of Insurance Commissioner)

READ FIRST TIME 02/02/07.

1       AN ACT Relating to medical malpractice closed claim reporting; and  
2 amending RCW 48.140.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4       **Sec. 1.** RCW 48.140.020 and 2006 c 8 s 202 are each amended to read  
5 as follows:

6       (1) For claims closed on or after January 1, 2008:

7       (a) Every insuring entity or self-insurer that provides medical  
8 malpractice insurance to any facility or provider in Washington state  
9 must report each medical malpractice closed claim to the commissioner.

10       (b) If a claim is not covered by an insuring entity or self-  
11 insurer, the facility or provider named in the claim must report it to  
12 the commissioner after a final claim disposition has occurred due to a  
13 court proceeding or a settlement by the parties.

14       Instances in which a claim may not be covered by an insuring entity  
15 or self-insurer include, but are not limited to, situations in which  
16 the:

17       (i) Facility or provider did not buy insurance or maintained a  
18 self-insured retention that was larger than the final judgment or  
19 settlement;

1 (ii) Claim was denied by an insuring entity or self-insurer because  
2 it did not fall within the scope of the insurance coverage agreement;  
3 or

4 (iii) Annual aggregate coverage limits had been exhausted by other  
5 claim payments.

6 (c) If a facility or provider is insured by a risk retention group  
7 and the risk retention group refuses to report closed claims and  
8 asserts that the federal liability risk retention act (95 Stat. 949; 15  
9 U.S.C. Sec. 3901 et seq.) preempts state law, the facility or provider  
10 must report all data required by this chapter on behalf of the risk  
11 retention group.

12 (d) If a facility or provider is insured by an unauthorized insurer  
13 and the unauthorized insurer refuses to report closed claims and  
14 asserts a federal exemption or other jurisdictional preemption, the  
15 facility or provider must report all data required by this chapter on  
16 behalf of the unauthorized insurer.

17 (2) Beginning in 2009, reports required under subsection (1) of  
18 this section must be filed by March 1st, and include data for all  
19 claims closed in the preceding calendar year and any adjustments to  
20 data reported in prior years. The commissioner may adopt rules that  
21 require insuring entities, self-insurers, facilities, or providers to  
22 file closed claim data electronically.

23 (3) The commissioner may impose a fine of up to two hundred fifty  
24 dollars per day against any insuring entity, except a risk retention  
25 group, that violates the requirements of this section.

26 (4) The department of health, department of licensing, or  
27 department of social and health services may require a provider or  
28 facility to take corrective action to assure compliance with the  
29 requirements of this section.

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